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SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-74363; File No. SR-BX-2015-013)

February 24, 2015

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fee Schedule under Exchange Rule 7018(a) and (e) with Respect to Transactions in Securities Priced at \$1 per Share or More

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4 thereunder,² notice is hereby given that on February 11, 2015, NASDAQ OMX BX, Inc. (“BX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fee schedule under Exchange Rule 7018 with respect to transactions in securities priced at \$1 or more per share.

The text of the proposed rule change is also available on the Exchange’s website at <http://nasdaqomxbx.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend BX Rule 7018(a) and (e) to modify the fees and rebates assessed under the rule applicable to transactions in securities priced at \$1 or more. Specifically, the Exchange proposes to clarify and make uniform throughout BX Rule 7018(a) the term “Midpoint pegging”, as well as in BX Rule 7018(e) regarding credits for retail orders. The Exchange also proposes to include within BX Rule 7018(a) a specific line item for a credit for an “Order with Midpoint pegging that removes liquidity” of \$0.0005 per share executed. The Exchange believes that these proposed changes increase transparency as to how a member's credit is determined, clarify the fee schedule, and do not change the overall current rate for such credits except for the one minor change noted above.³

Changing the language for non-displayed orders entered by a member that provides an average daily volume of 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity to include “other than orders with Midpoint pegging” instead of “including those pegged to the midpoint” results in no actual change. Currently, a member would never receive the \$0.0024 per share executed charge for an order with Midpoint pegging because instead the member would have qualified for the \$0.0005 per share executed charge for an order with Midpoint pegging entered by a member that provides an average daily volume of 2 million or more shares of non-displayed liquidity during the month.

³ The addition of the language concerning price improvement to BX Rule 7018 merely reflects how the system for credits and fees already currently operates, which is why this new language does not change the overall current rates for such credits.

Additionally, the Exchange proposes to define “price improvement” to mean instances when the accepted price of an order differs from the executed price of an order and incorporate it where applicable in BX Rule 7018(a) and (e). The accepted price is the price the matching engine assigns an order based on the instructions submitted by the member. It may differ from a customer’s limit price because of the order type (e.g., pegging and post only orders) or for regulatory reasons (e.g., Reg SHO, Reg NMS compliance or other regulatory restrictions). The accepted price of an order will not be more aggressive than the customer’s limit price, and is often the same as the customer’s submitted limit price. An order can execute up to its accepted price and this is the least advantageous price at which an order can execute. Any execution price that is different than the accepted price must be more advantageous than the accepted price. Thus, executions where the accepted price does not equal the execution price are situations when the order is receiving price improvement versus its accepted price.

The Exchange also proposes to change the fee assessed for BTFY and BCRT orders in securities listed on The NASDAQ Stock Market LLC (“NASDAQ”) (“Tape C”), the New York Stock Exchange (“NYSE”) (“Tape A”) and on exchanges other than NASDAQ and the NYSE (“Tape B”) (collectively, the “Tapes”).

BTFY⁴ is a routing option under which orders check the order execution and trade reporting system owned and operated by BX (the “System”) for available shares only if so instructed by the entering firm and are thereafter routed to destinations on the System routing table. If shares remain unexecuted after routing, they are posted to the System book. Once on the System book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

⁴ See BX Rule 4758(a)(v).

BCRT⁵ is a routing option under which orders check the System and then route to PSX and NASDAQ. If shares remain unexecuted, they are posted to the System book or cancelled. Once on the System book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

For BTFY and BCRT orders, the Exchange currently passes through all fees and rebates for orders that execute on PSX or NASDAQ. BTFY and BCRT orders executed on BX result in a pass through charge of \$0.0025 or \$0.0026 per share executed on PSX⁶ and \$0.0030 per share executed on NASDAQ.⁷ The Exchange is proposing to now assess a set charge of \$0.0030 per share executed for BTFY orders that execute on NYSE, NASDAQ or PSX and \$0.0007 per share executed for BTFY orders executed on any other venue. The Exchange is also proposing to now assess a set charge of \$0.0030 per share executed for BCRT orders that executes on PSX or NASDAQ in lieu of passing through credits and rebates.

BX is proposing to eliminate pass through fees and assess a set fee of \$0.0030 per share executed for both BTFY and BCRT. The Exchange currently passes through any routing fees charged and rebates to NASDAQ or PSX for these orders, which currently is \$0.0030 per share executed on NASDAQ and varies by tape on PSX but also may vary based on changes to those exchange's respective fee schedules.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁸ in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,⁹ in particular, in that it

⁵ See BX Rule 4758(a)(vii).

⁶ See NASDAQ OMX PHLX LLC Pricing Schedule, Section VIII(a)(1).

⁷ See NASDAQ Rule 7018(a).

⁸ 15 U.S.C. 78f.

provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed changes (i) to make the term “Midpoint pegging” uniform throughout BX Rule 7018(a) and (e), to define “price improvement” to mean instances when the accepted price of an order differs from the executed price of an order and incorporate it where applicable in BX Rule 7018(a) and (e), (ii) to include within BX Rule 7018(a) a specific line item for a credit for an “Order with Midpoint pegging that removes liquidity” of \$0.0005 per share executed, and (iii) to change the language for non-displayed orders entered by a member that provides an average daily volume of 3.5 million or more shares (but less than 5 million shares) of non-displayed liquidity to include “other than orders with Midpoint pegging” instead of “including those pegged to the midpoint” are reasonable because they increase transparency as to how a member’s charges and credits are determined. The Exchange also believes that these changes are consistent with an equitable allocation of fees and are not unfairly discriminatory because the overall current rate for such credits will not change

⁹ 15 U.S.C. 78f(b)(4) and (5).

except for the one minor change noted above and they apply uniformly to all market participants to whom the fee schedule is applicable.

Additionally, the Exchange believes that the proposed changes to the charges assessed for BTFY and BCRT orders in securities of any Tape that execute on PSX are reasonable because they more closely align the fee received with the costs associated with providing routing services. The Exchange incurs costs in operating and supporting the routing function, which are in addition to the fees of other exchanges that it incurs when a routed order executes on another venue. To cover such costs, the Exchange assesses the proposed fee for other routed orders, such as BSTG and BSCN orders, which are assessed a charge of \$0.0030 per share executed.¹⁰ Thus, the current pass through fee results in a discount to the fee assessed for use of the routing function for other routed orders.

The Exchange also believes that the proposed changes are reasonable because they remove complexity from the fee schedule and assess a fee that is not dependent on knowing what the current liquidity removal rates are on PSX and NASDAQ. The Exchange believes that the proposed changes to BTFY and BCRT order fees are equitably allocated because all member firms that receive an execution on PSX and NASDAQ will be assessed a fee that is more closely aligned with the costs incurred by the Exchange, as noted above. Also, the Exchange believes that the proposed changes to BTFY and BCRT order fees as to PSX do not discriminate unfairly because they eliminate a distinction in the fees whereby discounted fees are charged for use of the Exchange's routing functionality. Moreover, the proposed changes do not discriminate unfairly because they eliminate a distinction in the routing fees whereby some fees are fixed and others are based on fee assessed by other markets. As noted above, most routing fees are based

¹⁰ For a description of BSTG and BSCN routing strategies, see BX Rules 4758(a)(1)(A)(iii) and (iv).

on a set fee, and are not tied to the fees of other markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.¹¹ BX notes that it operates in a highly competitive market in which market participants can readily favor over 40 different competing exchanges and alternative trading systems if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, BX must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, BX believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the changes to routing fees and credits do not impose a burden on competition because the Exchange's routing services are optional and are the subject of competition from other exchanges and broker-dealers that offer routing services, as well as the ability of members to develop their own routing capabilities. The standardization of fees for execution of BTFY and BCRT orders that route from BX to PSX or NASDAQ are reflective of a need to better align the fees received with the costs incurred in operating and supporting the routing function. It removes an unnecessarily complex process to determine the fee assessed with a set fee, which is consistent with other BX routing fees. Under the current fees, a member firm must know what the fee schedule is on PSX and NASDAQ at any given time. Thus, the changes will simplify the fee schedule by providing certainty to the fee assessed. For these

¹¹ 15 U.S.C. 78f(b)(8).

reasons, the Exchange does not believe that any of the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Moreover, because there are numerous competitive alternatives to the use of the Exchange, it is likely that BX will lose market share as a result of the changes if they are unattractive to market participants. Finally, the changes relating to Midpoint pegging also will not result in any burden on competition because they serve to clarify and enhance the understanding of members as to how rates are assigned.

Accordingly, BX does not believe that the proposed rule changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and paragraph (f) of Rule 19b-4¹³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-BX-2015-013 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2015-013. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All

comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BX-2015-013, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Jill M. Peterson
Assistant Secretary

[FR Doc. 2015-04189 Filed 02/27/2015 at 8:45 am; Publication Date: 03/02/2015]

¹⁴ 17 CFR 200.30-3(a)(12).